

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 6818 of 1996****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

Whether this case involves a substantial question
of law as to the interpretation of the

4 constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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JIVAN SADHNA TRUST - Petitioner(s)
Versus
ASHRAM SHALA ADHIKARI & 1 - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner(s) : 1, MR RN SHAH for Petitioner(s) : 1,
MS FALGUNI PATEL AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**Date : 23/11/2005****ORAL JUDGMENT**

1. In the present petition, the petitioner-school management has challenged an order dated 26/8/1996 passed by the State Government by which an amount of Rs.1,00,750/- towards the maintenance grant given to the

petitioner is sought to be recovered. Case of the respondents seems to be that the petitioner did not abide by the requirement of maintaining a quota of 50% each for boys and girls in its school. On account of this the maintenance grant was required to be recovered.

2. The main ground of challenge raised in the petition is that the impugned order was passed without any show cause notice or opportunity of being given to the petitioner. It is not in dispute that the impugned order came to be passed without issuing a show cause notice to the petitioner in any other manner affording an opportunity to the petitioner to represent its case. The action of recovery cannot be sustained on the short ground alone. Impugned order is, therefore, quashed. Rule is made absolute with no order as to costs. By virtue of the impugned order in case the amount in question is already adjusted or recovered from the petitioner, the same shall be released.

3. Direct Service permitted.

(Akil Kureshi, J.)

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